

Discipline of Students with Disabilities

Students with disabilities are neither immune from a school district's disciplinary process nor entitled to participate in programs when their behavior impairs the education of other students. Students with disabilities who engage in disruptive activities and/or actions dangerous to themselves or others will be disciplined in accordance with their IEP, any behavioral intervention plan and this policy.

Nothing in this policy shall prohibit an IEP team from establishing consequences for disruptive or unacceptable behavior as a part of the student's IEP and/or behavioral intervention plan.

Suspension

Students with disabilities may be suspended for up to 10 school days in any given school year for violations of the student code of conduct. These 10 days need not be consecutive. During any such suspension, the student shall not receive educational services.

Upon the eleventh school day of suspension or removal when such suspension or removal does not result in a disciplinary change of placement, educational services shall be provided to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. School personnel, in consultation with at least one of the student's teachers, shall determine the educational services to be provided to the student during this period of suspension or removal.

Manifestation determination

Prior to expulsion or other disciplinary change in placement, the student's parents shall be notified of the decision to take such disciplinary action and of their procedural safeguards. This notification shall occur not later than the date on which such decision is made.

Within 10 school days from the date of the decision to expel the student or take other disciplinary action that will result in a disciplinary change of placement, the student's parents and relevant members of the student's IEP team shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents, to determine whether the student's behavior was a manifestation of the student's disability.

The team shall determine: (1) whether the student's behavior was caused by, or had a direct and substantial relationship to, the student's disability; and (2) whether the student's behavior was the direct result of the school's failure to implement the student's IEP. If the answer to either of these two questions is "yes," the student's behavior shall be deemed to be a manifestation of the student's disability.

Disciplinary action for behavior that is not a manifestation

Once the team determines that the behavior was not a manifestation of the disability, disciplinary procedures shall be applied to the student in the same manner as applied to nondisabled students.

During any period of expulsion or other disciplinary change of placement, educational services shall be provided as determined by the student's IEP team to enable the student to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals of his or her IEP.

Within a reasonable amount of time after determining that the student's behavior is not a manifestation of the student's disability, the student may receive, as appropriate, a functional behavioral assessment ("FBA"). In addition, a behavioral intervention plan ("BIP") may be developed for the student, as appropriate. If a BIP has already been developed, the BIP may be reviewed and modified, as appropriate.

Disciplinary action and/or alternative placement for behavior that is a manifestation

If the team determines that the student's behavior is a manifestation of the student's disability, expulsion proceedings or other disciplinary change of placement will be discontinued. However, the student may be placed in an alternative placement or the student's placement may be otherwise changed, in accordance with governing law.

Within a reasonable amount of time after determining that the student's behavior is a manifestation of the student's disability, the student's IEP team shall: (1) conduct an FBA of the student, unless an FBA has already been conducted; and (2) implement a BIP for the student. If a BIP has already been developed, the IEP team shall review it and modify it as necessary to address the student's behavior.

Placement in an alternative setting for 45 school days

School personnel may remove a student with disabilities to an appropriate alternative setting for not more than 45 school days if:

1. the student carried a weapon to school or a school function;
2. the student possessed a weapon at school or a school function;
3. the student possessed or used illegal drugs at school or a school function;
4. the student sold or solicited the sale of a controlled substance at school or a school function;
5. the student inflicted serious bodily injury on another person while at school or a school function; or
6. a hearing officer so orders.

Such removal to an alternative setting is permissible even if the student's behavior is determined to be a manifestation of the student's disability. The student's IEP team shall determine the educational services to be provided to the student in the alternative setting.

Students not identified as disabled

Students who have not been identified as disabled shall be subjected to the same disciplinary measures applied to students with disabilities if the district had "knowledge" of the student's disability.

The district is deemed to have knowledge of the student's disability if the student's parent has expressed concern in writing to appropriate district supervisory or administrative personnel, or the student's teacher, that the student is in need of special education and related services; the student's parent has requested an evaluation; or the student's teacher or other district personnel have expressed specific concerns about the student's pattern of behavior directly to the director of special education or other district supervisory personnel.

If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation will be expedited.

The district shall not be deemed to have knowledge that the student is a child with a disability if the parent has not allowed an evaluation of the student, the student has been evaluated and it was determined that he or she is not a child with a disability,

or the student was determined eligible for special education and related services, but the parent refused services.

Adopted: July 14, 1998
Revised: June 26, 2001
Revised: November 27, 2007

LEGAL REFS.: C.R.S. 22-33-106 (1)(c)
C.R.S. 22-20-101 *et seq.* (*Exceptional Children's Educational Act*)
20 U.S.C. §1401 *et seq.* (*Individuals with Disabilities Education Improvement Act of 2004*)

CROSS REFS.: JIC, Student Conduct, and subcodes
JK, Student Discipline, and subcodes
JRA/JRC, Student Records/Release of Information on Students
IHBA, Special Education Programs for Students with Disabilities

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